



May 8, 2024

NOTICE OF HEARINGS OFFICER FINAL DECISION

Subdivision Case 2024-04

You are receiving this Notice of Decision from the Hearing's Officer because you provided either written or verbal testimony on a proposed subdivision. Attached is a copy of the Hearings Officer's decision Subdivision Case 2024-04 for a 6-lot subdivision located at 6255 McLeod Lane NE, Keizer, OR also identified by Marion County Tax Assessor's Map No. 063W36BB Tax Lot 03700.

Any interested person, including the applicant, who disagrees with this decision, may appeal the decision to the City Council. Any such appeal must be filed with the Keizer Planning Department on an appeal form provided by the City. A fee of \$440.00 is required for any appeal filed. The appeal form is to be submitted to Keizer Planning Department, 930 Chemawa Road NE, PO Box 21000, Keizer, Oregon 97307-1000. The appeal form and fee must be received by the City by 5:00 pm **May 20, 2024**. Please see the Section 3.207 (Appeal Provisions) in the Keizer Development Code, for more information.

If you any questions, concerns or comments regarding this decision, please contact the Keizer Planning Department at (503) 856-3439 or 856-3442.

All documents for this case can be viewed at:

<https://www.keizer.org/maps/location/Subdivision2024-04>





8 de mayo de 2024

AVISO DE AUDIENCIAS DECISIÓN FINAL DEL FUNCIONARIO

Caso de Subdivisión 2024-04

Usted recibe este Aviso de decisión del Oficial de Audiencia porque proporcionó un testimonio escrito o verbal sobre una subdivisión propuesta. Se adjunta una copia de la decisión del Oficial de Audiencias Caso de Subdivisión 2024-04 para una subdivisión de 6 lotes ubicada en 6255 McLeod Lane NE, Keizer, OR también identificada por el Mapa del Tasador de Impuestos del Condado de Marion No. 063W36BB Lote de Impuestos 03700.

Cualquier persona interesada, incluido el solicitante, que no esté de acuerdo con esta decisión, podrá recurrir la decisión ante el Ayuntamiento. Cualquier apelación de este tipo debe presentarse ante el Departamento de Planificación de Keizer en un formulario de apelación proporcionado por la Ciudad. Se requiere una tarifa de \$440.00 por cualquier apelación presentada. El formulario de apelación debe enviarse al Departamento de Planificación de Keizer, 930 Chemawa Road NE, PO Box 21000, Keizer, Oregon 97307-1000. La ciudad debe recibir el formulario de apelación y la tarifa antes de las 5:00 p. m. del 20 de mayo de 2024. Consulte la Sección 3.207 (Disposiciones de apelación) del Código de Desarrollo de Keiser para obtener más información.

Si tiene alguna pregunta, inquietud o comentario sobre esta decisión, comuníquese con el Departamento de Planificación de Keizer al (503) 856-3439 o 856-3442.

Todos los documentos de este caso se pueden ver en:

<https://www.keizer.org/maps/location/Subdivision2024-04>



**BEFORE THE HEARINGS OFFICER
FOR THE CITY OF KEIZER, OREGON**

In the matter of the application of Orreo, LLC and Charles Weathers, to subdivide an approximately 0.93 acre parcel into 6 lots, as to a parcel located at 6225 McLeod Lane NE in Keizer, Oregon

Case No. 2024-04

LAND USE ORDER

I. INTRODUCTION AND NATURE OF THE APPLICATION

This matter came before the City of Keizer Hearings Officer on the application of Orreo, LLC, MMH, LLC, and their sole member Charles Weathers, as applicant and property owner (herein, “Applicant”), for approval of a subdivision. The premises are located at 6225 McLeod Lane NE in the City of Keizer, Oregon (the “Premises”). The Premises are also identified on Marion County Tax Assessor Maps as Township 6 South; Range 3 West; Section 36BB; tax lot 03700.

Applicant requested approval to subdivide one parcel of approximately 0.93 acre into 6 lots to construct up to 18 single family residences.

II. CRITERIA FOR DECISION

The standards and criteria that apply to the subdivision arise under Keizer Development Code (KDC) Section 3.108 and sections cited therein. The Staff Report dated April 18, 2024,¹ fully recited the criteria and explained pertinent rationales and intentions embodied in the criteria.

III. PUBLIC HEARING

Following public notice, the City of Keizer (City) held a public hearing on the applications on April 10, 2024. The Planning Department file was made a part of the record, as was the audio recording of the proceedings.

The Applicant was represented by Charles Weathers and Geoffrey James, who provided testimony on their applications. City Staff were represented by Planning Director Shane

¹ This Staff Report amended a report promulgated one day earlier on April 17, 2024. The April 18 Staff Report contains additional conditioning language proposed by the City’s public works department, but otherwise mirrors the April 17 report. For purposes of this Order, I rely on and cite to the April 18 Staff Report.

Witham, City Engineer Richard Walker, and Assistant Planner Dina Horner. Members of the public appeared and testified, and they are identified below.

At the beginning of the hearing, I made the declarations required by ORS 197.797. I had no ex parte communications to disclose, nor biases or conflicts of interest to report. I disclosed that I made a prehearing site visit to the subject property, including perusal of the trees and the former building site. These declarations also identified the criteria in the Staff Report; directed any comments be addressed to those criteria; and cautioned attendees that failure to raise issues or arguments in a manner that allowed persons to respond could preclude further appeal based on such issues. No person objected to the jurisdiction of the city or its hearings officer to hear and decide the application.

Planning Director Witham reviewed the application with a detailed summary. He also explained recent statewide legislation that required the City of Keizer and many other jurisdictions to amend their land use regulations regarding allowable housing choices in residential land use zones, sometimes referred to as “middle housing.” Planning Director Witham also reviewed other pertinent aspects of the application including state law parking limitations; drainage facilities; sufficient school capacity; tree removal allowances; and prohibited access to McLeod Lane NE. He recommended approval of the application.

Applicant’s representative Charles Weathers appeared and summarized the application. He was assisted by Kim Johnson, project engineer. Applicant was also assisted by Geoffrey James, who put on their rebuttal case.

Members of the public appeared and testified at the hearing. Several of these attendees had also previously supplied written testimony. The following table lists the people who testified, including persons who appeared in writing, and identifies the issues they raised. A key to the issues appears in the next section of this Land Use Order (the “Order”).

Name	Oral or Written	Issues raised:
David & La Rita Keller	Written	a
Laura Daniel	Written	c, f
Courtney Byra & Family	Both	a, b
Terry Guisinger	Both	a, b
Marie Nixon	Both	c, d
Lora and Tom Halferty	Both	b, e
Charles & Faith Baker	Both	d, e, g
Jerry Wentzel	Orally	c, f
Susan Wentzel	Orally	c, f
Troy (no last name provided)	Orally	c, e
Tom & Jennifer Rohlfing	Orally	Oppose the proposal

Courtney Byrd	Orally	a, e
Ron & Vicky Rafn	Orally	a,
Patty Tischer	Both	c, e
Shelly Perry	Both	c, f
Carol Punch	Orally	a, c
Steven Thierman	Writing	c, d, e
Lesley Hegewald	Writing	e
Heather Misener	Writing	e
Aaron Spoonheim	Writing	e

IV. FACTS AND FINDINGS

I have carefully considered the information in the staff report, the application, and the exhibits attached to both such sources. Moreover, I have considered the testimony and evidence presented at the public hearing.

After taking the matter under advisement, I issue the following findings of fact and decision.

A. Summary of findings and conditions

First, I find that the application properly identified the Premises by location and ownership. The Premises formerly contained a detached dwelling, remnants of which were removed following a May, 2023 fire. There are adequate public facilities available to serve the development.

Next, as Staff has explained, the property is designated Low Density Residential and zoned Single-Family Residential (RS). All properties adjacent to the Premises are zoned RS and improved with single-family dwellings.

Third, the 71-page Staff Report is a thorough, balanced, and reasoned explication of the criteria and the evidence that relates to the criteria. The Staff Report does an exemplary job of presenting a neutral yet thorough explanation of how the application, with conditions, satisfies the criteria.

As explained in greater detail below, I find that the evidence presented in the hearing built on the prehearing evidence regarding storm drainage criteria² and easement parking³ to a degree sufficient to merit additional analysis. As to these criteria, this Order adopts findings which

² KDC 2.306 and 2.310.06 (F).

³ KDC 2.302.08(D).

supersede the related findings in the Staff Report, along with implementing conditions which augment conditions in the Staff Report.

Apart from these limited and specific superseding findings—and in lieu of repeating the undisturbed and sufficient findings of the Staff Report—I adopt and incorporate the Staff Report by reference in its entirety as grounds for this Order.

Finally, this Order addresses the concerns raised orally and in writing at the public hearing. To do so, the findings identify the key issues in the table above by a letter, and below explain the issue and findings as to each such issue. This constitutes a “key” to the table of issues set forth above.

B. Findings and conclusions as to Storm Drainage

KDC 2.306: No construction of any facilities in a development included in Subsection 2.306.02 shall be permitted until a storm drainage and erosion control plan for the project is prepared by a professional engineer, and approved by the City. These provisions shall also apply to any cut and fill on a property, which may impact the velocity, volume, or quality of surface water on adjacent property, or may impact any permanent natural body of water.

KDC 2.310.06(F): Surface Drainage and Storm Sewer System. Drainage facilities shall be provided within the subdivision and to connect the subdivision drainage to drainage-ways or to storm sewers outside the subdivision. Design of drainage within the subdivision shall take into account the capacity and grade necessary to maintain unrestricted flow from areas draining through the subdivision and to allow extension of the system to serve such areas. Drainage shall be designed to avoid impacts on the adjacent property.

Findings:

Under these criteria, proposed development must minimize, mitigate, and avoid associated storm drainage and erosion runoff problems. To achieve this, the City requires applicants to create and submit engineered storm drainage and erosion control plans for review and approval before applicants may undertake any development on the project site.

Before the public hearing on this application, the City received comments expressing concerns that the proposed development might create storm drainage runoff that could impact adjacent properties. In response, the City’s public works department submitted comments, and the Staff Report recommended conditions of approval, which I accept and embody in this Order.

During the hearing, Applicant acknowledged city staff concerns that the storm drainage facilities rendered in Sheets 6 and 7 of their engineered drawings (Staff Report pages 34 and 35) were insufficient to mitigate storm water drainage from the project at buildout. Applicant’s engineer explained that proposed bioswales illustrated in Sheet 6 would need to be expanded along the northerly and southerly boundaries of the Premises, but that sufficient square footage existed on the Premises to develop such facilities. Applicant’s engineer also confirmed that she would render an Operations and Maintenance manual (the “Manual”) for the entire stormwater system. The evidence also confirmed that the easement could be plumbed for stormwater to enter the bioswales, and that City stormwater facilities in McLeod Lane NE would be reserved only for emergency overflow purposes.

This evidence leads to three important findings. First, I find that it is feasible for Applicant to construct storm water infiltration facilities with sufficient square footage to treat storm water generated by the project at full buildout. Next, I find that with treating storm water which includes outflow from the impervious vehicular easement, grease and oil will flow into the storm water treatment areas such that maintenance of the facilities takes on critical significance. Third, since the bioswales will border the Premises between project development and existing development, applicant or its successor must routinely clean and empty the bioswales, and maintain the sometimes fragile vegetation⁴ within such swales, so as to avoid flooding or overflow to adjacent properties.

Accordingly, I find that this development must proceed upon formation of a homeowners’ association (HOA). Among other things, such HOA will be responsible for maintaining the storm drainage system to specifications of the Manual. I also find that Applicant must revise their submitted storm drainage and grading designs with supporting calculations that demonstrate conformance to City standards, and must submit these revisions to the City for our review and approval before starting any development. The facilities must serve the Premises at full buildout consistent with the City’s Master Storm Drain Plan for this area of Keizer. Applicant must also obtain erosion control permits from the City before disturbing any soil on the Premises.

With additional conditions annexed to Staff’s conditions, I conclude that the application will meet this criterion.

⁴ Planted bioswales offer utility as well as physical attractiveness. For one thing, the root systems of such plantings can thrive in moist environments. When such vegetation thrives, the roots help infiltrate water into the ground. As another utility, plantings in such bioswales offer opportunities to install native species, which not only increase species hardiness but also offer habitat to local pollinating insects. On whole, thoughtfully planted swales offer opportunities to both increase sustainable outcomes *and* assist development with meeting stormwater treatment goals and objectives. Naturally, such swales must be cleaned and carefully maintained. To this end, approval conditions which require an O and M manual, along with a homeowners’ association, will help this Applicant’s development sustain desired outcomes. It is my hope that Applicant embraces use of native species in plating their swales, such that the swales may assist Applicant in meeting City criteria and other best practices of responsible development.

C. Findings as to easement parking prohibitions

KDC 2.302.08(D): A private access easement created as the result of an approved partitioning or subdivision shall conform to the standards governing . . . (D) parking.

The intent of this criterion is to ensure that when development relies on private access easements for vehicular access, the city will maintain and impose standards for their use.

Comments rendered by the Keizer Fire District indicated that the proposed access easement would not be wide enough to accommodate fire equipment and parked cars. The District recommended that the applicant install “no parking” signs on the access easement, and the Staff Report and this Order will require such signage as a condition of approval.

At the public hearing, Applicant provided additional detail about the easement, which illustrated the easement area as undesirable for parking. For example, the distance between driveways will be shorter than an average car length, meaning that it will not appear to a motorist that one could park a car between driveways. Moreover, the presence of driveways at the easement area will discourage most reasonable motorists from parking cars in ways that would block driveways, especially driveways to homes that the motorist does not own or occupy.

While I can credit the testimony and agree that the driveways and driveway spacing will discourage parking, the evidence was not sufficient to illustrate how the development might remove a parked vehicle. It is true that the City may enforce parking rules on private property, however development should administer its own impacts wherever possible. Thus, I find that an approval condition is necessary to task a homeowners’ association to form a parking program, and act as the property owners’ agent to both enforce “no parking” rules and call for impounds and tow trucks for vehicles parked in violation of signs and rules.

With additional conditions, I conclude that the application will meet this criterion.

D. Findings as to issues raised in public testimony

This Order also addresses the concerns raised at the public hearing. To do so, these findings assigned letters to the key issues in the table above, and below explain the issue and findings as to each issue. This comprises a “key” to the table of issues set forth above. To some extent, the below findings refer to or rely on the findings and conditions in the Staff Report, but the findings below do not disturb or remove findings or conditions set forth in the incorporated Staff Report.

a. The application proposes too many developable lots in relation to the surrounding area.

At the public hearing, both Staff and Applicant observed that under state law requirements, the City of Keizer and many other jurisdictions have amended their development codes to allow

“middle housing” type of development. This development type is intended to offer lower cost housing as an effort to address statewide housing shortages and inequalities in statewide housing markets.

As a result of the statewide requirements, the City’s RS zone allows outright permitted development of housing such as duplexes, triplexes, and other similar development types, without regard to density. Applicant proposes to construct six buildings each comprising some number of dwelling units, such that the site total will equate to 18 or fewer dwellings.

I cannot identify any factual basis in the expressed concerns about developable lots to deny the subject application.

b. The project will allow buildings to be constructed to excessive heights.

In the RS zone, the City limits building height to 35 feet. Though there are no limits on how many stories a building may possess, the maximum height regulations place practical limits on the number of building stories which development may construct. I can identify no factual basis in the allowable building heights to deny the application, especially since the City will enforce height maximums under its building permit review and approval process.

c. Too much noise and traffic will result from the proposed development.

Several members of the public testified that the development will increase traffic on the nearby street system, including McLeod Lane. Certainly it is true that adding new housing will increase the number of vehicles in the area. To some degree though, the City has controlled for this. First, it does not appear that the proposed development meets the threshold to require Applicant to perform a formal Transportation Impact Analysis. Second, the City will close the existing curb cuts to McLeod, and require future housing to rely on the access easement to reach McLeod. Finally, the developer will dedicate sidewalks to the public, along McLeod, and the improved street section will increase the residential and pedestrian character of the development, potentially reducing reliance on automobile trips over time.

Accordingly, I cannot identify any factual basis relating to traffic to deny the subject application.

d. Trees on the Premises should be saved.

Several members of the public testified to seek preservation of trees on the Premises. The Applicant did not have an arborist to testify about the proposal, and there was not a great deal of evidence about the quality or numbers of trees on the Premises. There was evidence that one tree was damaged due to a fire in 2023. Even if remaining trees are meritorious, the KDC allows for removal of significant trees when development is proposed, and imposes a 2:1 ratio for replacement.

Here, Applicant has provided a tree plan and Staff have rendered approval conditions to require tree replacement. I am satisfied that with conditions, the application satisfies the criteria as to tree planting on the Premises.

e. Insufficient onsite parking for the proposed development.

Staff explained orally and in writing that recent state law changes have affected how the City may enforce its parking regulations. To create development which increases its support of public transit, OAR 660-012-0440 prohibits cities in metropolitan areas from enforcing parking mandates for development which is situated within ½ mile of a frequent transit corridor. Staff have explained that the Premises are located within ½ mile of Lockhaven, which is considered a frequent transit route. Accordingly, the city’s parking ratios are unenforceable on the Premises.

Because the proposed land division will approve lots and not structures, there is some inherent flexibility in how the Applicant may design its homesites. As Applicant explained at the hearing though, a certain amount of on-site parking is needed to successfully market the homesites, even if the city cannot require parking under the OARs.

In the totality, then, despite the lack of enforcement authority as to parking, the development is almost certainly going to provide onsite parking. Even if it did not, I can identify no substantial evidence within the record to deny the application based on this issue.

f. Insufficient police or fire services to support the proposed development.

Though some public comments questioned whether the City’s police resources are adequate to serve the increase in development under this application, I could identify no evidence regarding response times or officer staffing which might flesh out such concerns into cognizable findings or analysis. If anything, Staff explained that the City is trying to hire more police officers. Thus, I am unable to render any findings of denial on the issue of police services.

As to fire suppression services, there was evidence in the record that the Keizer Fire District requested approval conditions, and these have been created in this Order. Accordingly, I find that the application meets the criteria as to police or fire services.

g. The application fails to comply with the Keizer Strategic Plan and Comprehensive Plan

It is the case that the city has created a “Strategic Plan” for future delivery of services to the public. While this plan has been circulated for public input, the Strategic Plan is a policy document that is not encompassed within the narrow category of land use regulations such as the development code and Comprehensive Plan. Accordingly, the Strategic Plan affords me no basis to evaluate or deny the application.

Comments also referenced the City’s Comprehensive Plan. As Staff explained at the hearing, the City amended its Comprehensive Plan as part of adopting state law “middle housing” types into the City’s land use regulations. Thus, I find consistency between the Comprehensive Plan and the subject application.

V. DECISION AND CONDITIONS OF APPROVAL

I find that the record as a whole contains substantial evidence, including but not limited to the application, Staff Report with attachments, public testimony, and written comments. The substantial evidence indicates that the proposal complies with all applicable criteria. Accordingly, I **APPROVE** the application subject to the Conditions of Approval set forth below.

Applicant shall complete these conditions, including review and approval by the appropriate department, prior to the stated timelines. Compliance with the Conditions of Approval shall be the sole responsibility of the applicant and/or property owner.

1. The KDC requires the developer to connect to public utility services. The Development Code also requires all utility services to be placed below ground. These requirements apply to this request. Further, the developer is responsible for all utility connection costs. The City's System Development Charges for park development, water system improvements and transportation improvements shall be the fee in place at the time of building permit application. These Development charges, as well as those involving the extension of sewer, water, and/or storm drainage, will apply to this request.
2. The Public Works Department has reviewed the development application, preliminary construction plans, stormwater report, and supporting information, and recommends the following conditions of approval and development requirements:

General:

- a) Construction permits will be required for any construction within a public street, right-of-way, or City easement, for any public infrastructure on private property, and for erosion control and stormwater management on private property. (KDC 2.302.06)
- b) Street opening permits are required for any work within the City right-of-way or easements that is not covered by a construction permit. (KDC 2.302.06)
- c) Erosion control permits shall be obtained from the City prior to the disturbance of any soil on the subject property. (KDC 2.306.05)
- d) A pre-design meeting with the City Public Works Department will be required prior to the submittal of public improvement plans to either the City of Keizer or the City of Salem for review.

- e) An improvement agreement or performance security in a form acceptable to the City shall be required prior to issuance of permits for construction of the public improvements. (KDC 3.202.05.B)
- f) A pre-construction conference shall be required prior to commencement of any construction under permits issued by the City.
- g) The Applicant shall coordinate the location of individual or cluster box unit (CBU) mailboxes with the U.S. Postal Service.
- h) Electricity, gas, and communications services to serve the subdivision shall be installed underground and pursuant to the requirements of the company serving the development. (KDC 2.307.02.C)
- i) As explained in these Conditions and in the accompanying Order, the Applicant must create or oversee creation of a homeowners' association to ensure, among other things, maintenance of the storm drainage system; maintenance of the vehicular access easement; parking enforcement in the vehicular access easement; and other purposes the Applicant finds prudent for this development.

Streets:

- a) Dedicate a 10-foot public utility easement (PUE) along the frontage of the McLeod Lane NE street right-of-way. (KDC 2.302.04)
- b) Construct the driveway approach in accordance with Design Standards. (Keizer Design Standards)
- c) Construct the proposed private internal street with an approved turnaround meeting Keizer Design Standards. (KDC 2.302.08.C).
- d) Close existing driveways onto McLeod Lane NE and replace curb and sidewalk in accordance with Keizer Design Standards. (KDC 2.302.03.N)
- e) Vehicular access to the proposed lots shall be provided from the private internal accessway and access easement. (KDC 2.302.03.N)

Sanitary Sewer System:

- a) The proposed public sanitary sewer main shall be located in an exclusive easement, dedicated to the City, and be a minimum width of 20 feet, unless otherwise approved.

(Salem Design Standards 1.8(b))

- b) The proposed public sanitary sewer main shall be constructed per Keizer Design Standards.
- c) City of Salem approval for local sewer permits will need to be issued prior to construction. Prior to submitting plans to the City of Salem for approval, the Applicant's engineer shall submit plans to the City of Keizer Public Works Department for review and determination of compliance with the City's Master Sewer Plan for the area.
- d) It will be the responsibility of the Applicant to locate any existing sewer services that serve the subject property and provide evidence that they are available for reuse. Any septic tank and drainfield located on the subject property and within the City of Keizer shall be abandoned according to the requirements of the appropriate agency and evidence of compliance submitted to the City prior to issuance of any building permits on the subject property.

Water System:

- a) The proposed public water main shall be located in an exclusive easement, dedicated to the City, and be a minimum width of 10 feet. (Keizer Design Standards 5.12.c)
- b) The proposed water main shall be constructed per Keizer Design Standards.
- c) Final development plans shall be reviewed by the Keizer Fire District regarding access and adequate location of fire hydrants prior to any issuance of Public Construction permits by the City of Keizer. All required fire hydrants shall be served by an 8-inch or larger water main.
- d) Any existing wells on the subject property shall be abandoned in accordance with the Oregon State Water Resources Department requirements. The Applicant shall provide evidence to the Public Works Department that any abandonment of existing wells has been completed in accordance with such requirements.
- e) Location of all water meters shall be approved by the Public Works Department.

Storm Drainage System:

- a) The existing 10-inch storm drain in McLeod Lane NE may be used as an overflow route for the proposed storm drainage system serving the development. The applicant shall provide an evaluation of the conveyance capacity of the existing system downstream of the development. (Keizer Design Standards 400.2.C; KDC 2.306.04.D)

- b) The stormwater facility and conveyance system shall be designed to collect and convey stormwater runoff from all onsite and offsite areas to an approved Point of Connection. (Keizer Design Standards 400.1.D.5)
- c) Construct stormwater collection, conveyance, treatment, and retention facilities to accommodate new impervious surfaces in the proposed access easement and right-of-way, and future impervious surfaces on all proposed lots, in accordance with Keizer Design Standards Chapter 400.
- d) This property is located in a “Critical Basin” and the stormwater facility retention shall be designed accordingly. (Keizer Design Standards 400.2.E.5)
- e) An easement shall be provided for all shared stormwater facilities prior to acceptance of the improvements.
- f) Stormwater runoff from all building roof and foundation drains shall be conveyed to the proposed stormwater facilities.
- g) Public Works has reviewed the preliminary stormwater plans and report provided with this application. The information provided does not demonstrate reasonable conformance with the requirements of Chapter 400 of the Keizer Design Standards, specifically in the proposed site grading and the size of the proposed facilities. The Applicant’s engineer shall submit a final overall storm drainage and grading design with supporting calculations, along with a system Operation and Maintenance Manual to guide Applicant and its successor owners and agents including the homeowners’ association, demonstrating conformance to the Standards, for review and approval prior to the start of development. Here and elsewhere, submitted materials must be acceptable to the City.
- h) A grading and drainage plan shall be provided for the subject property in conformance with the Keizer Design Standards. The plan shall include details of adequate stormwater conveyance from all contributing areas across the subject property and shall include existing elevations and proposed lot corner elevations. The plan shall be submitted to and approved by the Public Works Department prior to the issuance of any erosion control or construction permits for the development.
- i) The homeowners’ association created under these Conditions is responsible to ensure and must ensure that the development’s storm drainage system, including any swales or other infiltration facility, is maintained to the standards contained in its Operation and Maintenance Manual.

Prior to Preliminary Plat Approval:

3. A detailed preliminary subdivision plat shall be submitted to the Marion County Surveyor's office for review. Marion County Surveyor's office will then submit the plat to Keizer for review and approval. The Preliminary Plat must be submitted for review prior to submittal of a final plat. The process for plat review and submittal shall be regulated by the Marion County Surveyor's Office. All requirements of the Marion County Surveyor's Office and applicable state statutes shall be followed which may include, but not be limited to the following:
 - a. Subdivision name must be approved per Oregon Revised Statue 92.090.
 - b. Must be surveyed and platted per Oregon Revised Statue 92.050.
 - c. Subdivision plat must be submitted for review.
 - d. Checking fee and recording fees required.
 - e. Per Oregon Revised Statue 92.065 remaining monumentation bond may be required if some of the plat monuments have not been set and/or the installation of street and utility improvements has not been completed, or other conditions or circumstances cause the delay (or resetting) of monumentation.
 - f. A current or updated title report must be submitted at the time of review. Title reports shall be no less than 15 days old at the time of approval of the plat by the Surveyor's Office, which may require additional updated reports.

The detailed preliminary plat shall include the following provisions:

- g. The preliminary plat shall substantially conform to the proposed subdivision request.
- h. Include all engineering elements as required by the Department of Public Works.
- i. For all public water mains, fire hydrants and any public sewer mains located within the subject property (if located outside platted rights-of-way) easements will be required and will need to be recorded. These easements shall meet the City of Keizer or City of Salem (where applicable) Design Standards and shall be shown on the subdivision plat.
- j. 10-foot-wide public utility easements (PUE) shall be shown along all dedicated rights-of-way.

- k. The access easement and turnaround areas must be shown on the plat with approved street name. Access easement shall comply with City and Keizer Fire District standards.
 - l. All lots must conform to the lot dimension standards within the RS zone. The final plat must show both gross and net area calculations. (excluding access easement and turn-around)
 - m. Include a signature line for Planning Director, City Engineer, and the City Manager.
4. With the Preliminary plat a copy of the proposed CC&R's, Owners Agreements, Articles and By-Laws shall be submitted to the Planning Department for review by the City Attorney as outlined in Section 3.108.07 of the Keizer Development Code. At a minimum these materials must address the following information and needs:
- a. Information regarding streetscape and replacement tree requirements for each lot.
 - b. Information regarding the private access easement and restriction of vehicular access to be limited to the access easement, with no direct vehicular access allowed to McLeod Lane.
 - c. Plan for and carry out a program to enforce parking control signs up to and including private party impounds.
 - d. Plan for and carry out a program to maintain the Storm Drainage System to the standards of the development's Operation and Maintenance Manual.

Prior to Final Plat approval:

5. The applicant shall submit a revised Tree Removal and Replacement Plan to the Planning department for review and approval, showing the approximate location of all streetscape and replacement trees to be planted. Significant trees removed shall be replaced at a ratio of 2 replacement trees for every 1 tree removed.

If all 22 trees qualify as significant trees and are removed, a total of 44 trees shall be provided within the subdivision or accounted for in an off-site mitigation plan. Off-site mitigation should be utilized to avoid overcrowding. Payment into the City's landscape mitigation fund must be made prior to plat approval. If the applicant wishes to propose larger specimen trees for replacement, the Planning Director may reduce the total number of replacement trees required. Regardless of how many trees are provided through off-

site mitigation, streetscape trees will be required (16 total within subdivision) to be planted for each lot according to the requirements identified in this report. In addition to streetscape trees, a minimum of 1 replacement tree must be provided on each lot.

6. Upon approval of the detailed preliminary plat and engineering plans, a final plat for the subdivision, which conforms to the preliminary plat approval, must be submitted for review to Marion County Surveyor's Office.
7. Upon approval of the preliminary agreement, a final copy of any CC&R's, Homeowner Agreements, or other instrument shall be submitted to the Planning Department which conforms to the agreements submitted during preliminary plat approval and shall contain language regarding the requirements for streetscape and replacement trees.
8. Homeowners' Association instruments acceptable to the City shall be reviewed by the City before the plat is recorded and such instruments must be recorded with Marion County immediately following the recording of the Plat. The instruments shall provide provisions for the maintenance of the access easement and turn-around area, address display signage, "no parking" signs, storm drainage system maintenance including successor planting and cleaning of swales, and parking enforcement.
9. The construction and paving of the access easement and turn-around area, installation of the street addressing signage, required no parking signage shall be completed prior to approval of the final plat. In lieu of this, the applicant may obtain a performance bond, improvement agreement or other instrument acceptable to the City as outlined in Section 2.310.06.P of the KDC. Improvement agreements may be obtained from the Planning Department.
10. The final plat for the subdivision shall be recorded within 2 years from the date of final decision on this application. A one-year extension may be approved by the Planning Director. Requests for extensions must be received in writing at least thirty days prior to the one-year time period.

Prior To Obtaining Building Permit(s):

11. No building permits shall be issued until the plat is recorded and all conditions of any construction permits are completed to the satisfaction of the Department of Public Works.
12. The property owner must submit documentation that the recording has taken place with Marion County for the maintenance of the access easement, address display signage, storm drainage system, and construction and enforcement of "no parking" signs, before a building permit will be issued.

13. Proposed dwellings must comply with the design standards of KDC Section 2.314.

Prior to Obtaining Building Permit Final for each dwelling within the Subdivision:

14. The residential address requirements found in the Oregon Uniform Fire Code shall be completed as approved by the Keizer Fire District and the Planning Department.

15. Streetscape trees will be required to be planted prior to final building permit approval for each lot. Trees must be planted consistent with Section 2.309 of the KDC which requires a minimum 2” caliper and 8’ in height for deciduous trees. Two Streetscape trees shall be planted along each lot frontage adjacent to the access easement and 2 streetscape trees shall on each lot along McLeod Lane.

16. Trees designated as replacement trees from the final approved Tree Replacement Plan must be planted within the subdivision for each individual lot as required.

17. Applicant or any contractors building on lots shall comply with all applicable city regulations regarding noise, dust, times of construction, etc.

18. Maintenance agreement alternative.

In satisfying any condition herein which requires formation or administration of a homeowners’ association, the Applicant may satisfy the condition with a written maintenance agreement or equivalent agreement that promotes the same objectives and is recorded in the same manner as homeowners’ association instruments.

This alternative is available if and only if, and only during such time as: a) all dwellings are developed as rental units, or all units become converted to rental units at some point after construction; and b) all owners comprising the entire fee interest of the Premises subscribe to and sign the alternative agreement, agreeing to be bound thereby.

This alternative ceases to become available upon failure of one or both of these predicate conditions. In such case, satisfaction of the conditions will revert to formation and administration of a homeowners’ association. Any instrument offered to satisfy approval conditions under this alternative must first be approved by the City before it is recorded or effective.

VI. APPEAL RIGHT

Any person who participated orally or in writing and who is not satisfied with this decision may appeal to the City Council within ten (10) days of the date this written decision is mailed. Any

appeal must be 1) timely; 2) made on forms provided by the City; and 3) be accompanied by the fee established by Keizer Development Code Section 3.208.

DATED: May 8, 2024

A handwritten signature in blue ink, appearing to read 'Theodore Naemura', is written over a light gray rectangular background.

Theodore Naemura
Hearings Officer